REMARKS

At the outset, Applicants thank the Examiner for the thorough review and consideration of the pending application. The Office Action dated September 17, 2004 has been received and its contents carefully reviewed.

In the Office Action, the Examiner rejected claims 1-19 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of Kim et al. (U.S. Patent No. 6,724,458). This rejection is respectfully traversed and reconsideration is requested.

As set forth in M.P.E.P. § 804(II), a determination of whether a nonstatutory basis for double patenting exists must be made while treating "domination" and "double patenting" as separate issues (a first patent or application "dominates" a second patent or application when the first patent/application has a broad/generic claim which fully encompasses/reads on a claim in the second patent/application). Domination by itself (i.e., in the absence of statutory or nonstatutory double patenting grounds) cannot support a double patenting rejection. Indeed, as set forth in M.P.E.P. § 804(II)(B)(1)(a), a sufficient basis for an obviousness-type double patenting rejection is established only when the invention claimed in the application is an obvious variation of an invention claimed in a cited reference. Thus, any analysis supporting an obviousness-type double patenting rejection must parallel the guidelines for analysis of an obviousness rejection under 35 U.S.C. § 103(a) and, therefore, set forth reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent. See M.P.E.P. § 804(II)(B)(1). All determinations of obviousness under 35 U.S.C. § 103(a) require: (1) there be some suggestion or motivation to modify a reference; (2) there be some reasonable expectation of success in modifying the reference; and (3) that all claimed elements be taught or suggested by the reference when modified. See M.P.E.P. § 2143.

Nevertheless, in rejecting claims 1, 5, and 11 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of Kim et al., the Examiner stated that the claims were "not patentably distinct from each other because the present claims are broader in scope than the patented claims." Applicants respectfully, submit, however, that the statement cited above merely constitutes an assertion, unsupported by any facts, that each of the claims in the present application are broader than (i.e., dominate) the claims of Kim

et al. Merely asserting the domination of claims in the present application over those in Kim et al. fails to satisfy any of the aforementioned criteria necessary to establish a *prima facie* case of obviousness at least because such an assertion fails to establish that the claims in Kim et al. teach or suggest each and every claim element presently recited. For at least this reason, Applicants respectfully request withdrawal of the present rejection under the judicially created doctrine of obviousness-type double patenting.

In the Office Action, the Examiner rejected claims 1, 2, 5-8, 11, 12, 16, 18, and 19 under 35 U.S.C. § 102(e) as being anticipated by Kim et al. This rejection is respectfully traversed and reconsideration is requested.

The effective reference date of Kim et al. is its filing date of December 11, 2002. The present application, while filed on June 26, 2003, claims the benefit of foreign priority to Korean Patent Application No. P2002-44692, filed July 29, 2002, which antedates the effective reference date of Kim et al. By this response, Applicants hereby supplement the certified priority document filed June 26, 2003 with an English translation of the certified priority document (and a statement that the translation of the certified copy is accurate). Accordingly, Applicants hereby perfect the present claim to foreign priority and submit Kim et al. is not available as prior art under 35 U.S.C. § 102(e). For at least the reason presented above, Applicants respectfully request withdrawal of the present rejection under 35 U.S.C. § 102(e).

In the Office Action, the Examiner rejected claims 3, 4, 9, 10, 13-15, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Kim et al. in view of Applicants related art. This rejection is respectfully traversed and reconsideration is requested.

In view of the perfected claim to foreign priority, Applicants respectfully submit Kim et al. is not available as prior art under 35 U.S.C. § 103(a) for the same reason it is not available as prior art under 35 U.S.C. § 102(e). For at least the reason presented above, Applicants respectfully request withdrawal of the present rejection under 35 U.S.C. § 103(a).

Applicants believe the foregoing remarks place the application in condition for allowance and early, favorable action is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911. A duplicate copy of this sheet is enclosed.

Dated: December 13, 2004

Respectfully submitted,

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